

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**COUNTRYWIDE'S REPLY IN SUPPORT OF ITS MOTION TO
STAY THIS COURT'S MARCH 31 AND MAY 23 DISCOVERY ORDERS**

The Court should grant Countrywide's Motion for Stay. Although Plaintiffs claim (at 5 n.3) that Countrywide has not filed its writ of mandamus, Countrywide in fact will file its petition for a writ of mandamus with the Eighth Circuit tomorrow, May 27.

Plaintiffs also claim “[d]iscovery issues” are not typically the subject of a writ of mandamus. Opp. at 3-4. To the contrary, the Eighth Circuit frequently grants mandamus to review orders (like the one at issue here) ordering disclosure of privileged information. *See, e.g.*, *In re Bieter Co.*, 16 F.3d 929, 932 (8th Cir. 1994) (granting writ; holding communications with independent contractors privileged); *Diversified Indus., Inc. v. Meredith*, 572 F.2d 596, 601-02 (8th Cir. 1978) (granting writ; district court compelled production of intra-company privileged document). Countrywide believes review is especially warranted to resolve the conflicting orders, issued by the Court and Judge Gaitan, about the same Missouri Fee Chart.

Finally, there is no immediate need for production of the Missouri Fee Chart. Plaintiffs admit discovery is not currently scheduled to conclude for several months, and do not explain why they would need the Fee Chart before then. Nor do they address the fact that discovery

could be extended to accommodate their concerns. Absent any demonstrated immediate need for the Fee Chart, the Court should grant Countrywide's motion for a stay.¹

Respectfully submitted,

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¹ Plaintiffs argue at length that Countrywide will not be irreparably harmed if it is forced to comply immediately with this Court's orders. Even if correct, it is plain that any harm to Countrywide is far greater than and delay that Plaintiffs might experience in receiving the Fee Chart if Countrywide's writ of mandamus is unsuccessful.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was filed electronically with the above-captioned court, with notice of case activity to be generated and sent electronically by the Clerk of said court (with a copy to be mailed to any individuals who do not receive electronic notice from the Clerk) this 26th day of May, 2011, to:

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